

REMARKS

Reconsideration of the pending application is respectfully requested on the basis of the following particulars:

Objection to the drawings

Revised Fig. 1C is shown in the "Replacement Sheets" of drawing appended herewith. Fig. 1C has been corrected to include the legend "Prior Art," obviating the Examiner's objection. Withdrawal of the objection is respectfully requested.

Objections to the specification

The abstract of the disclosure is presently objected to because of form and legal phraseology that should be avoided. The abstract has been amended for improved form, and to eliminate improper legal phraseology. Accordingly, withdrawal of the objection is requested.

Claim objections

Claims 3 and 4 are presently objected to because of certain informalities. In particular, claim 3 recites "said common axis" without proper antecedent basis, and claim recites "said elastic return member" without proper antecedent basis and includes a typographic error.

Claims 3 and 4 have been amended to correct these informalities, and withdrawal of this objection is requested accordingly.

Rejection of claims 2 and 10 under 35 U.S.C. § 112, second paragraph

Claims 2 and 10 presently stand rejected as being indefinite. Claim 2 has been cancelled, and claim 10 is amended to more clearly recite the structure of the present invention, and to clearly identify "the first end" instead of "the end." Accordingly, withdrawal of this rejection is respectfully requested.

Rejection of claims 1, 2, and 8 under 35 U.S.C. § 102(b)

Claims 1, 2, and 8 presently stand rejected as being anticipated by Yang (U.S. 5,868,149). This rejection is respectfully traversed for the following reasons.

Claim 1 has been amended to more clearly describe the present invention. Claim 1 recites a tubular guide element, and a cleaning means mounted movably in the tubular guide element and fixed to a first end of a support means. A gripping means comprises a tubular body that surrounds the tubular guide element. A first end of the tubular body allows passage of the tubular guide element, and a second end of the tubular body is connected to a second end of the support means. A return means is interposed between the second end of the tubular body and the second end of the tubular guide element. This arrangement is best understood with reference to Figures 2, 2A, and 3A-3C of the present application.

Referring to Fig. 2 of the present application, it can be seen that the support means 58, and cleaning means 36 extending from a first (front) end of the support means 58, are slidably disposed within the tubular guide element 32 such that the cleaning means 36 may be extended from, or retracted within, the tubular guide element 32. The tubular guide element 32 can be seen to extend from a first (front) end of the tubular body 50, and it can be seen that the tubular body 50 is slidable around the tubular guide element 32. The support means 58 extends rearward from the tubular guide element 32 such that a second (rear) end of the support means 58 connects with a second (rear) end of the tubular body. Thus, it can be seen that sliding the tubular body forward along the tubular guide element causes the support means 58 to drive the cleaning means 36 forward to extend from the first (front) end of the tubular guide element.

It is respectfully submitted that Yang fails to anticipate claim 1 of the present application, because Yang does not disclose or suggest each and every element set forth by claim 1. "A claim is anticipated *only if each and every element* as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). "The *identical invention* must be shown in as complete detail as

is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989) (emphasis added). The elements must be arranged as required by the claim. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

Referring to Yang's embodiment illustrated generally by Figures 7-12, the invention is seen to comprise an outer tube 212 and an inner rod 22 which is slidably disposed within the outer tube. The inner rod 22 is essentially the retractable toothpick, sliding within and extendable from the outer tube. If the outer tube 212 is construed as a "gripping means" or the tubular body of the present invention, then there is entirely lacking any "tubular guide element" surrounded by the outer tube, as is required by claim 1 of the present invention. A more reasonable construction is that the outer tube 212 is similar to the "tubular guide element," and that Yang simply lacks the "gripping means" or tubular body surrounding the tubular guide element as set forth in claim 1 of the present application. It must be further considered that a "grip" is provided by arms 231 and 232 to operate the retractable toothpick between extended and retracted positions, thus obviating the need for any further grip structure such as that of the present invention.

Furthermore, claim 1 of the present invention requires a return means interposed between the second end of the *tubular body* and the second end of the *guide element*. There is no such return means disclosed or suggested by Yang. This is because Yang discloses no tubular body, and therefore cannot disclose a return means interposed between the *tubular body* and the *guide element*. Yang employs the arms 231 and 232 to provide a return bias for the inner rod 22. However, this structure differs substantially from the presently claimed invention.

Referring to Yang's embodiment illustrated by Fig. 13, the device shown is similar to that of the previously discussed figures except the arms 231 and 232 are eliminated and replaced with a slide button 222. Thus, the embodiment of Fig. 13 is entirely lacking a return means. As seen in the previously discussed figures, Yang's fig. 13 can be seen to comprise an outer tube 21 and an inner rod 22 which is slidably disposed within the outer tube. Again, construing the outer tube 21 as similar to the claimed "tubular guide element" and the inner rod 22 as a cleaning means, Yang simply lacks the "gripping

means” or tubular body surrounding the tubular guide element as set forth in claim 1 of the present application.

Referring to Yang’s embodiment illustrated by Fig. 16, the retractable toothpick seen fails to disclose or suggest the invention of claim 1 of the present application for the same reasons discussed above. Essentially, an outer tube 21 is again shown with an inner rod, and this construction again lacks the tubular body surrounding a tubular guide element. Further, the embodiment of Fig. 16 employs a spring disposed within the outer tube 21, disposed between a front position of the outer tube 21 and a position on the inner rod 22. The claimed invention, however, sets forth a return means interposed between the second end of the tubular body and the second end of the guide element. This is clearly not met by any arrangement illustrated by Yang.

Considering the differences of structure between the claimed device and the embodiments of the Yang patent, certain advantages in the use of the presently claimed device can be recognized. With the claimed device, it is sufficient to grip the tubular body and push it toward the teeth, as the cleaning means extends to clean a space between the teeth. This is a simple action because the support means, the tubular guide element, and the tubular body (gripping means) are the general configuration of coaxial cylinders. With a device according to Yang’s Fig. 12, it is necessary to act on the arms 231 and 232 which are not aligned with the cleaning member (inner rod 22). With a device according to Yang’s Fig. 16, it is required to push on the inner rod 22. If a user pushes on the end of the member 22, stability is lacking by comparison to the present invention wherein the device is gripped securely alongside the tubular body (gripping means). On the other hand, if a user grips the sides of the inner rod 22, the user’s fingers will limit the distance that the inner rod 22 can be moved, because the outer tube 21 will interfere with the fingers and prevent further progress of the inner rod 22.

It is respectfully submitted that, for at least these reasons, Yang fails to anticipate claim 1, or any of the dependent claims 3-10, of the present invention. Accordingly, withdrawal of the rejection is respectfully requested.

Rejection of claims 3, 4, 7, 9, and 10 under 35 U.S.C. § 103(a)

Claims 3, 4, and 10 presently stand rejected as being unpatentable over Yang, and claims 7 and 9 are rejected as being unpatentable over Yang in view of Tcherny et al (U.S. 6,418,940). These rejections are respectfully traversed for the following reasons.

As discussed above, Yang fails to disclose or suggest each and every element set forth by claim 1. Further, Tcherny fails to supplement the shortcomings of Yang with respect to the lacking elements of claim 1. Therefore, neither Yang by itself, nor Yang in combination with Tcherny, provide the necessary teachings to form a prima facie case of obviousness of claims 3, 4, 7, 9, and 10 which depend from claim 1. Therefore, withdrawal of these rejections is respectfully requested.

New claim 12

Claim 12 has been added. Claim 12 recites material which is novel and non-obvious in view of the prior art of record, and it is therefore respectfully submitted that claim 12 is fully patentable over all the references of record.

Conclusion

In view of the amendments to the claims, and in further view of the foregoing remarks, it is respectfully submitted that the application is in condition for allowance. Accordingly, it is requested that claims 1, 3-10, and 12 be allowed and the application be passed to issue.

If any issues remain that may be resolved by a telephone or facsimile communication with the Applicant's attorney, the Examiner is invited to contact the undersigned at the numbers shown.

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Art Unit: 3732

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "John R. Schaefer". The signature is fluid and cursive, with the first name "John" being more prominent than the last name "Schaefer".

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